

COUNTY OF YORK

MEMORANDUM

DATE: March 29, 2005 (BOS Mtg. 4/19/05)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application Nos. ZM-91-05 and UP-660-05, Landmark Building and Development of North Carolina, LLC

ISSUE

These applications are two components of a single development proposal and, therefore, are being described in a single memorandum. However, separate public hearings and separate actions/votes should be conducted on each.

Application No. ZM-91-05 is a request to amend the York County Zoning Map by reclassifying 63.48 acres identified as Assessor's Parcel Nos. 15-2-D, 15-6-A, 15-7, 15-2-C, 15-2-B, and 15-4B from LB (Limited Business) to EO (Economic Opportunity); a 1.0-acre portion of Assessor's Parcel No. 15-4A from RC (Resource Conservation) to EO; a 1.08-acre portion of Assessor's Parcel No. 15-2-B from LB to RC; and a 0.41-acre portion of Assessor's Parcel No. 15-4A from LB to RC. The property is located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of the intersection with Tam-O-Shanter Boulevard (Route 1123) and is subject to voluntarily proffered conditions.

Application No. UP-660-05 is a request, contingent on the approval of Application No. ZM-91-05 above, for a Special Use Permit to authorize the construction of a timeshare resort on approximately 64.48 acres of land located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of the intersection with Tam-O-Shanter Boulevard (Route 1123). The property is further identified as Assessor's Parcel No. 15-2-D, 15-6-A, 15-7, 15-2-C, 15-4B, and portions of Assessor's Parcel Nos. 15-2-B and 15-4A.

DESCRIPTION

- Property Owners: Revocor Corporation and Williamsburg Country Club
- Location: North side of Merrimac Trail (Route 143) approximately 1,250 feet south of the intersection with Tam-O-Shanter Boulevard (Route 1123)
- Area: 65.97 acres
- Frontage: Approximately 4,000 feet on Merrimac Trail
- Utilities: Public water is available; sanitary sewer is available

- Topography: Slight slopes from west to east on the property with moderate and steep slopes in the eastern portion of the property and around the lake
- 2015 Land Use Map Designation: General Business, Limited Business, and Conservation
- Zoning Classification: LB - Limited Business and RC - Resource Conservation
- Existing Development: Undeveloped
- Surrounding Development:
 - North: Williamsburg Country Club and Golf Course, 43-acre undeveloped property, and across Interstate-64 a 233-acre undeveloped parcel and Naval Weapons Station military base
 - East: Naval Weapons Station military base
 - South: Across Merrimac Trail, CSX Railroad Tracks, and Pocahontas Trail (Route 60) is the Busch Gardens theme park (in James City County)
 - West: Across Merrimac Trail and the CSX Railroad Tracks various warehousing structures, then along Merrimac Trail the vacant Phillip Morris facility, a nine acre parcel, the Williamsburg Country Club, and several single-family houses along Rolling Hills Drive in Country Club Acres subdivision.
- Proposed Development: Parkview timeshare resort and construction of new maintenance facility for the Williamsburg Country Club.

CONSIDERATIONS/CONCLUSIONS

1. The applicants are requesting to rezone the properties along Merrimac Trail (Route 143) from Limited Business and Resource Conservation to Economic Opportunity which will enable the applicant (Landmark) to then request a Special Use Permit to construct a timeshare resort. As part of this request, portions of the properties would be rezoned from LB-Limited Business to RC-Resource Conservation and would become part of the Williamsburg Country Club, while the 64.48 acres under contract to Landmark Building and Development of North Carolina, LLC will be the subject of the Special Use Permit request.
2. The *Comprehensive Plan* designates the area along Merrimac Trail for General Business, Limited Business, and Conservation. The Plan states, "the Williamsburg Country Club is designated Conservation, but a Limited Business designation has been applied to a large area east of the country club in recognition of the area's convenient accessibility to Interstate 64, the potential for extension of public utilities, and the marketing appeal and open space and aesthetic benefits associated with the adjacent golf course." The area west of the country club is designated as General Business tying into the other business uses that run along Merrimac Trail. The *Comprehensive Plan* also states that the Grove Interchange and existing power lines bisecting the eastern area make residential use of the property less than ideal but

provides convenient access from the interstate. The project is not only close to an Interstate interchange, it is convenient to the area's tourist attractions (i.e., Water Country USA, Busch Gardens, and the historic triangle).

3. The applicants have proffered that the development of the property will comply with the master plan and the architectural rendering submitted, with only minor changes being approvable by the Zoning Administrator. The concept plan features multi-unit buildings and single-family detached units. In addition to the timeshare/interval ownership units, the resort will have two clubhouses, a welcome/sales center, and check-in/out facility along with a parking area. The proffers also specify uses that would typically be permitted by right in the EO-Economic Opportunity District that will not be allowed on the properties. These include:

- Plant Nursery or Greenhouse (Wholesale and Retail)
- Animal Hospital Vet Clinic
- Commercial Kennel (without outside runs)
- Commercial Orchard or Vineyard
- Medical Care Facility (including General Care Hospital and Trauma Center)
- Park or Recreation Facilities (Civic or Semi-Public, excluding golf courses)
- Theater – Indoor
- Health, Exercise, Fitness Centers (including Indoor and Outdoor Swimming and Racquet Sports)
- Bowling Alley
- Indoor Family Amusement Center
- Skating Rink
- Appliance Sales
- Grocery Store
- Household Furnishings (Furniture)
- Drug Store
- Radio and TV Sales
- Toy Store
- Bait, Tackle/Marine Supplies (including Incidental Grocery)
- Fish, Seafood Store
- Department, Variety, Discount Store
- Home Improvement Center
- Funeral Home (File Processing Lab)
- Household Items Repair
- Tool, Household Equipment, Lawn & Garden Equipment, Rental Establish
- Industrial Park
- Wholesale Trade Establishment (May Include accessory retail sales without outdoor storage)
- Laboratories, Research/Development Testing Facilities
- Publishing, Printing, other than general public business/professional services
- Computer and Technology Development and Assembly
- Manufacture or Assembly of Electronic Instruments, Components, Devices
- Manufacture or Assembly of Medical, Drafting, Metering, Marine, Photographic, Mechanical Instruments.

1. The traffic impact study submitted as part of the application indicated that additional road improvements were warranted for two of the entrances to the timeshare resort. The applicants have proffered that there would be no more than three entrances and

that various road improvements would be constructed. Specifically, the developer will add left turn lanes eastbound on Merrimac Trail (Route 143) into the gated sections and a right turn lane will be constructed for the eastern entrance. Staff has also included a Special Use Permit condition in the approving resolution that provides for the construction of road improvements as recommended by the Virginia Department of Transportation (VDOT). VDOT has indicated that a continuous center turn lane will be required.

2. An abandoned roadway extends from Merrimac Trail into the easternmost portion of the subject parcel. The applicants have initiated discussions with VDOT with the hope of acquiring this right-of-way and then incorporating this additional area to the buffer between the resort and Merrimac Trail.
3. Timeshare resorts share some similarities with hotels: for a price, an individual can occupy a unit for a fixed period of time and can use the available on-site amenities as part of the rental or purchase agreement. Unlike hotels, however, timeshare resorts do not cater to travelers who do not plan their stay in advance: they require advance reservations through the resort office or an affiliated off-site reservation company. The Historic Triangle has proven to be a popular destination resulting in an expanding timeshare market that includes King's Creek Plantation, Peppertree Resort, and the Fairfield resorts at Governor's Green, Kingsgate, and Patriots Place.

A common practice in the timeshare industry is the division of individual timeshare units into additional separate units. For example, instead of selling a whole three-bedroom unit, a resort may further subdivide the unit into one two-bedroom and one one-bedroom unit separated by a locked door. Timeshare resorts use different terms for these subdivisions; they are most commonly referred to as "lockouts" or "keys". The attraction to this sort of marketing is two-fold: the resort increases the number of separate families that can stay at the resort at any one time, and purchasers of a unit with "lockouts" may be entitled two weeks to stay at the resort rather than one. It is important to consider "lockouts" or "keys" to ensure that traffic and parking impacts are accounted for in the review. Because of the many interpretations and definitions of the "lockout" concept, I simply recommend defining "timeshare unit" as a single unit of one or more rooms that may be separated from other units by a locked door, providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation. By using this definition, all individually marketable units will be accounted for.

4. The requested Special Use Permit is for a timeshare resort along Merrimac Trail (Route 143) on 64.48 acres of land. The resort will have 392 apartment type units, with lockouts, with an additional 40 villas or single-family type structures. Factoring in the "lockout" features of some of the units, the resort would have a maximum of 824 individual units. Out of the 392 apartment-type flats, 296 units will be in four story buildings and 96 units will be in three story buildings. Access to the property will be via Merrimac Trail, with convenient Interstate access from the east via the Interstate-64 Williamsburg business exit and from the west via the Route 199 (Water Country USA) interchange.

5. The applicant is proposing a maximum of 824 timeshare units, including lock-outs. The Zoning Ordinance requires that parking be provided at a ratio of 1.3 spaces per unit; using this ratio yields 1,072 parking spaces for this development.
6. The proposed resort will include the timeshare units, a welcome/sales center, reception check-in center, pedestrian/cart access trail connecting the clubhouses to the lake and welcome/sales center, and two clubhouses with an indoor and an outdoor water facility that will include swimming pools, slides, and other playground-oriented water features. The applicant has included architectural renderings for a multi-unit resort building. The proposed building will be four stories in height, with brick on the first floor and natural material siding on above floors. Staff has included conditions in the approving resolution to tie resort construction to the architectural renderings provided by the applicants.
7. Due to the topography and location of the properties, the area is well suited for a timeshare resort. Difficulties with terrain such as the property's steep slopes and wetland areas are not suited for an intensive commercial development, where traffic counts would be higher and steep slopes would necessitate extreme stormwater control measures. The timeshare resort layout can work with these terrain issues by creating a design that harmonizes the developable areas with the topography. Furthermore, the site is relatively isolated from major residential areas and that, in my opinion, will tend to limit its potential for any type of major retail development.
8. Timeshare resorts have a positive fiscal impact upon the County, with minimal service requirements. These developments do not have any permanent residents and, therefore, do not place a burden on the school system, recreational programs, or other similar services utilized by County residents. Visitors to the resort spend money in the area, boosting established County businesses and tax revenues. The resort will also employ a sales staff, cleaning and maintenance crews, and guest relations staff, thus creating employment opportunities for County and area residents. For this project, the developer estimates a total investment for land and construction of \$162 million and an annual Real Estate tax revenue of \$2.3 million at buildout. In addition, any units rented for transient (non-owner) occupancy would be subject to the County's 5% lodging tax rate.

This project, like other timeshare projects in the County, will be subject to the transient occupancy tax and the \$2/room night supplementary fee when its accommodations are rented as if they were hotel rooms. The Commissioner of the Revenue reports that the timeshare facilities appear to be diligently collecting and paying all required transient occupancy taxes and fees. To date, in calendar year 2005 the Commissioner of the Revenue reports the following for tax and fee collections. Note that timeshares account for approximately 6.5% of the fees and taxes collected:

\$2 fee Transient Occupancy Tax

Hotels/Motels/B&B/Campgrounds	\$109,813	\$179,774
Timeshares	\$7,950	\$ 12,299
Grand Total	\$117,763	\$192,073

9. Timeshare developments carry with them the concern that should the project fail, the owner/developer might be inclined to propose their conversion into rental or condominium apartments for permanent year-round occupancy. This issue was researched by the County Attorney several years ago in response to questions raised during the review of another timeshare development. The County Attorney concluded that such a conversion would be very difficult to achieve and that the Zoning Ordinance performance standards for timeshare resorts prohibit year-round occupancy. Nevertheless, to reinforce this, staff has included a proposed condition in the approving resolution to clearly state that such a proposal would require the Planning Commission's review and the Board's approval.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered these applications at its March 9 meeting and, subsequent to conducting a public hearing at which only the applicant and his agents spoke, voted 7:0 to recommend approval of both.

COUNTY ADMINISTRATOR RECOMMENDATION

I believe the proposed project is consistent with the Comprehensive Plan's vision for the Merrimac Trail corridor. In addition, the applicant has provided details of the proposed development, including an architectural rendering and a master plan that I believe demonstrate a commitment to quality consistent with the Board's objectives. Timeshare resorts place few burdens on County infrastructure and carry with them the potential for increased revenue by bringing additional tourists to the County. Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve these applications through the adoption of proposed Ordinance No. 05-09 and proposed Resolution No. R05-57.

Carter/3337: EWA
Attachments

- Excerpts of Planning Commission minutes, March 9, 2005
- Zoning Map
- Exhibit C: Zoning Information
- Exhibit B: Existing Property Boundary Information
- Development Narrative
- Master Plan
- Illustrative Plan (see attached 24" x 36" drawing)
- Architectural Rendering (Front and Rear Views)
- Proffer Statement
- Proposed Ordinance No. 05-09 (Rezoning)

York County Board of Supervisors

March 1, 2005

Page 7

- Proposed Resolution No. R05-57 (Special Use Permit)